

**COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT**

PLYMOUTH, ss.

**SJC No. DAR-
App. Ct. No. 2022-P-0824**

**COMMONWEALTH OF MASSACHUSETTS
APPELLEE**

V.

**JEAN REZAC
APPELLANT**

**ON APPEAL FROM A JUDGMENT OF THE
PLYMOUTH COUNTY SUPERIOR COURT**

**APPLICATION FOR DIRECT APPELLATE REVIEW
* REFERENCES IMPOUNDED MATERIAL***

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REQUEST FOR DIRECT APPELLATE REVIEW

Ms. Rezac requests that this Court grant direct appellate review, under Mass. R.A.P. 11, to resolve a conflict in the law regarding the appropriate test for criminal responsibility. To establish criminal responsibility, the Commonwealth must prove, *inter alia*, “the defendant’s substantial capacity to appreciate the wrongfulness of his conduct.”¹ *Commonwealth v. Goudreau*, 422 Mass. 731, 735 (1996), citing *Commonwealth v. McHoul*, 352 Mass. 544, 546–547 (1967). During closing argument in this bench trial in Plymouth Superior Court, which centered on Ms. Rezac’s criminal responsibility, the trial judge (Sullivan, J.) presciently raised an issue regarding the scope of the term “wrongfulness”:

“If somebody understands what they are doing is *criminal*, such as [‘]don’t call the police,[‘] but feels that due to a higher *moral* obligation I’m going to do this anyway ... that’s where I’m struggling a little bit in this case.”

(T9/13,15, emphasis added). Put another way, the trial judge was asking whether the Commonwealth had to prove that Ms. Rezac had the substantial capacity to appreciate not only the *criminal* import of her conduct, but also the *moral* import of

¹ The Commonwealth must also prove that the defendant had the “substantial capacity to conform his conduct to the requirements of the law.” *Goudreau*, 422 Mass. at 735.

her conduct.

The trial judge's intellectual wrestling was well-founded: Massachusetts law on this issue is unsettled. In *Goudreau*, this Court set forth the "proper instruction on criminal responsibility." *Goudreau*, 422 Mass. at 735. But the *Goudreau* instruction is self-contradictory, suggesting, in one instance that the Commonwealth need only establish an appreciation of *either* the legal *or* moral import of the conduct, *Id.* at 737-738, yet in another instance implying that the Commonwealth must prove *both* legal *and* moral import, *Id.* at 738. This Court's post-*McHoul* decisions are ambiguous on this point.

Other jurisdictions have, for good reason, explicitly required proof of an appreciation of both the legal and moral import of the conduct—a notion that has deep roots in American jurisprudence. *United States v. Freeman*, 357 F.2d 606, 622-626 (1966) ("we wish to include the case where the perpetrator appreciates that his conduct is criminal, but, because of a delusion, believes it to be morally justified"), cited for more general purposes in *McHoul*, 352 Mass. at 552, and citing *People v. Schmidt*, 216 N.Y. 324, 332, 340 (1915) (Justice Benjamin Cardozo explaining that criminal responsibility encompasses knowledge of not just legal, but moral, wrongfulness). Although the two concepts—legal and moral appreciation—are "closely related," *Kahler v. Kansas*,

140 S.Ct. 1021, 1046 (2020) (Breyer, J., dissenting), they do not always overlap, as the instant case demonstrates.

Indeed, the distinction strikes at the heart of this case. Both testifying doctors—a psychiatrist and a psychologist—agreed that Ms. Rezac was not criminally responsible for the attack on her son (for which she was found not guilty by reason of insanity), but determined that when she subsequently prevented her son from calling police, she understood the *criminal* import of her conduct; neither affirmatively testified that she appreciated the *moral* import of that conduct—and the evidence strongly suggested that she did *not*.

Ultimately, the trial judge, in his self-instructions, determined that the question was “*either/or*,” not “*both/and*,” thus relieving the Commonwealth of its burden to prove that Ms. Rezac also had the substantial capacity to appreciate the *moral* import of her conduct underpinning the witness intimidation and child endangerment charges, for which the trial judge found her guilty.

This Court should grant this application for direct appellate review to clarify that the Commonwealth must prove that the defendant had the substantial capacity to appreciate *both* the criminal *and* moral import of the conduct to establish criminal responsibility, and to remand this case for the trial judge to, on the same evidence, reach a verdict on

such proper instructions.

Granting such review would also allow for this Court to address the other important issues in this appeal concerning the adequacy of the indictment, see *Commonwealth v. Barbosa*, 421 Mass. 547 (1995), the sufficiency of the evidence at trial, and the propriety of the imposition of GPS at sentencing, see *Commonwealth v. Roderick*, 490 Mass. 669 (2022).

PRIOR PROCEEDINGS

On June 27, 2018, indictments were returned charging Jean Rezac with assault and battery with a dangerous weapon, G.L. c. 265, § 15A, attempted murder, G.L. c. 265, § 16, reckless endangerment of a child, G.L. c. 265, § 13L, and intimidation of a witness, G.L. c. 268, § 13B. (IR1/3-6).² A bench trial before Sullivan, J., took place over the course of two days, September 29, 2021, and October 7, 2021. (R/14-16). Ms. Rezac's motion for required finding at the close of the Commonwealth's case was denied. (T9/43-44).

² The Record Appendix is referred to as (R/*page*); the Impounded Record Appendices: (IR*volume/page*). The Addendum is referred to as (Add*page*). The transcripts are referred to as (T*volume/page*), and the transcript volume numbers correspond to the following transcript dates: T1–7/19/18, T2–1/15/19, T3–2/5/19, T4–3/22/19, T5–4/1/19, T6–5/7/21, T7–8/19/21, T8–9/29/21, T9–10/7/21, T10–11/30/21, T11–1/14/22.

Ms. Rezac was found not guilty by reason of lack of criminal responsibility on two charges: assault and battery with a dangerous weapon, and attempted murder. (R/15-16). She was found guilty on the other two charges: reckless endangerment of a child, and intimidation of a witness. (R/15-16). Ms. Rezac moved pursuant to Mass. R. Crim. P. 25(a) for the judge to enter a post-conviction finding of not guilty on the child endangerment charge, which was denied. (R/15-16).

A hearing on sentencing spanned two days, November 30, 2021, and January 14, 2022. (R/16). The Court imposed a five-year probationary term on both counts, with conditions. (R/16). A timely notice of appeal was filed. (R/16).

The matter was entered in the Appeals Court on August 23, 2022, as No. 2022-P-0824, and Ms. Rezac's brief was filed on February 8, 2023.

STATEMENT OF FACTS

1. Introduction.

The focus of this bench trial was criminal responsibility. The facts were largely undisputed. The parties stipulated to the introduction of police reports, a 911 call, photographs, medical records, and audio/video recordings of witness interviews. (R83). The Commonwealth called one witness, Officer Stephen Smolinsky. The defense called two witnesses, a forensic psychologist, Ashley Murray, Ph.D., and a forensic

psychiatrist, Fabian Saleh, M.D., and introduced reports from each doctor evaluating Ms. Rezac's criminal responsibility. (IR/65-94). Both doctors agreed that Ms. Rezac was suffering from severe depressive symptoms and anxiety on the day of the alleged offenses, and that, at least for a portion of the events, Ms. Rezac lacked the substantial capacity to appreciate the wrongfulness of her behavior. (IR1/83-85,93-94).

2. The morning of April 25, 2018, at the Rezac residence.

In April 2018, Ms. Rezac and her husband, Jeromy Rezac, lived in Plymouth with their 12-year-old son Sam and 11-year-old daughter Mary.³ (IR1/67-68). Sam had Asperger's Syndrome and, according to Mr. Rezac, could be "difficult to handle at times." (IR1/56). Sam reported that his mother was generally comforting, but also would become frustrated with him, and made suicidal statements to him in the past, such as "I'm so angry at you I could commit suicide." (IR1/55). Mornings were particularly difficult, as Sam and Ms. Rezac would argue over Sam's refusal to take his medications and vitamins, and to eat breakfast. (IR1/62).

On the night of April 24, 2018, Sam and Ms. Rezac argued over the elastics on Sam's dental braces. (IR1/62).

³ The names "Sam" and "Mary" are pseudonyms.

Mary overheard Ms. Rezac state, “[w]hat’s the point of living if we are fighting all the time[?]” (IR1/62).

The next morning, on April 25, 2018, Ms. Rezac woke up her son Sam, looked at him “oddly,” and asked if he wanted to “wrestle” on a couch next to Sam’s bed. (IR1/60). Ms. Rezac asked how Sam was feeling and suggested that he “[r]est a little bit,” before covering him with a blanket. (IR1/60). Several minutes later, Sam felt a “[t]ingling” feeling in his neck, observed blood and saw a hole in the blanket that had been covering his head. (R1/143). He realized that his mother had stabbed him. (IR1/60).

Ms. Rezac told Sam, “[i]t’s ok, I’ll bring you to the bathroom to clean you up.” (IR1/60-61). Ms. Rezac escorted Sam to the bathroom, where the bathtub was filled with water. (IR1/61). Ms. Rezac was “staring” at Sam’s injuries, and Sam asked her, “[w]hy are you staring at my neck[,] you did this[?]” (IR1/61). Ms. Rezac began to clean Sam’s cut. (IR1/61). Then, without saying anything, Ms. Rezac began to push Sam’s head and neck under water with “medium” force. (IR1/61).

Sam was able to get out of the bathtub. (IR1/61). He pushed his mother away from him, and Sam and Ms. Rezac began to physically tussle. (IR1/61). Sam grabbed a “towel rack” to prevent Ms. Rezac from pushing him back into the bathtub. (IR1/61).

Ms. Rezac left the bathroom and returned holding two knives behind her back, which Sam convinced her to put down. (IR1/61). Sam retreated to his room and attempted to call 911. (IR1/61). Ms. Rezac came into the bedroom with a knife and took the telephone away, preventing Sam from calling police, telling him that everything was “OK.” (IR1/61).

Mary yelled “what’s going on?” and Ms. Rezac put the knife down, exited Sam’s bedroom. (IR1/61). Ms. Rezac then went downstairs. (IR1/61). Sam grabbed the knife and went into his mother’s room, where he locked the door and called 911. (IR1/61).

Officer Smolinsky, the first police officer to arrive at the Rezacs’ home, was let in and led upstairs by Mary. (T8/26-27). The bathroom door was closed and had blood “smeared” on it. (T8/26-27). Sam came out from a bedroom and had what Officer Smolinsky testified was a “little mark on his neck.” (T8/29).

Officer Smolinsky heard water running inside the bathroom and the door was locked. (T8/29). He announced himself and then kicked in the door. (T8/29). Officer Smolinsky testified that he “saw Ms. Rezac sitting in the tub, up to her neck, with what appeared to be blood red water, and just sitting there with a stoic look on her face.” (T8/29). Ms. Rezac was fully clothed, was not responsive, and had a “blank stare.” (T8/29,40).

Ms. Rezac's right arm emerged from the water with a 10-inch kitchen knife. (T8/30). Officer Smolinsky grabbed the knife from Ms. Rezac, turned around and put it on the counter. (T8/30). When Officer Smolinsky turned back around, Ms. Rezac was holding another knife, a four-inch steak knife. (T8/30). Before Officer Smolinsky could grab it, Ms. Rezac "jabbed herself in the neck with it." (T8/30). Officer Smolinsky grabbed the second knife. (T8/30). Ms. Rezac then submerged her head under water. (T8/30). Officer Smolinsky pulled her head out of the water and removed her from the bathtub, applying pressure to the wound on her neck. (T8/31).

Officer Smolinsky testified that Ms. Rezac was "motionless, not saying anything" and he was "concerned about her losing consciousness." (T8/31). When Ms. Rezac "regained consciousness," after other officers had arrived, she became "a little combative." (T8/31;IR1/63). She stated, "I don't want to live anymore, leave me alone, just let me die." (IR1/52). Ms. Rezac was transported to a local hospital and then Beth Israel Deaconess Hospital in Boston. (T8/32; IR1/63). Ms. Rezac had two puncture wounds to her throat, two slices to her chest, and an abrasion on the back of her neck. (T8/32).

Sam was treated at South Shore Hospital for the "little wound on his neck." (T8/34). Records from South Shore Hospital were not introduced at trial.

3. Dr. Ashley Murray.

Dr. Murray, a Commonwealth-employed forensic psychologist at the Worcester Recovery Center Hospital (“WRCH”), testified about her criminal responsibility evaluation of Ms. Rezac, who underwent a 40-day commitment at WRCH. (T8/45). The defense also introduced Dr. Murray’s 24-page evaluation report. (IR1/65-88).

Dr. Murray opined that Ms. Rezac was suffering from a mental disease or defect at the time of the alleged offenses, namely Major Depressive Disorder and Generalized Anxiety Disorder. (IR1/83). She further determined that Ms. Rezac’s “capacity to appreciate the moral wrongfulness of her behavior was impaired at the time of the offense, secondary to her major depressive episode.” (IR1/83). Dr. Murray determined however that *after* the attack on her son, Ms. Rezac “evidenced a capacity to appreciate her actions were *criminally* wrong.” (IR1/85, emphasis added).

In reaching her opinion, Dr. Murray determined that prior to April 25, 2018, Ms. Rezac was experiencing depressive symptoms including hypersomnia, social isolation, a depressed affect, and expressions of hopelessness. (IR1/83). In the weeks leading up to April 25, 2018, Ms. Rezac’s functioning decreased. (IR1/81-82). She attempted suicide on two occasions and began hearing auditory hallucinations stating negative things about her and telling her to kill

herself. (IR1/83). She expressed “chronic overwhelming hopelessness” to her mental health treatment providers and found it “unbearable to care for [her children] given their constant yelling, physical assaults, and emotionally abusive statements to her on a daily basis.” (IR1/83-84).

Regarding the April 25, 2018 events, Dr. Murray wrote: “[Ms. Rezac’s] presentation at the time of the [incident] indicates a major depressive episode. She stabbed herself several times and presented with a flat stare to police and expressed a desire to die.” (IR1/84).

After the offense, at MCI-Framingham, Dr. Solomon Carter Fuller Mental Health Center, and WRCH, Ms. Rezac reported suicidal ideation and anxiety to treatment staff, and “continued to present with symptoms of depression, and ongoing intermittent suicidal ideation.”⁴ (IR1/84).

Regarding Ms. Rezac’s capacity to appreciate the wrongfulness of her conduct, Dr. Murray concluded that her appreciation of her behavior was “impaired, in the context of her severe depression and resultant negative cognitive distortions,” such that she “believed suicide/death was the only solution to her negative emotional state.” (IR1/85). Ms. Rezac reported that her son’s behavior had become increasingly worse, that he was chronically unhappy and

⁴ Psychological testing at WRCH indicating no concern regarding “malingering or distorting her profile.” (IR1/76).

unstable, and would never have a normal life. (IR1/85). As a result of “her hopeless thoughts about her life and the bleak future she saw for her son, she decided to kill him to prevent him from further misery and frustration.” (IR1/85).

4. Dr. Fabian Saleh.

The defense also called Fabian Saleh, M.D.—who conducted a criminal responsibility evaluation at the request of the Plymouth County District Attorney’s Office—and introduced his report as evidence. (IR1/89-94;T8/106). Like Dr. Murray, Dr. Saleh opined that Ms. Rezac suffered from a mental disease or defect at the time of the alleged offenses. (IR1/91). He further determined that, at the time of the alleged offenses, Ms. Rezac lacked the substantial capacity to appreciate the wrongfulness of her conduct. (IR1/91). He agreed with Dr. Murray that after the attack on her son, “the data would suggest that [Ms. Rezac] understood *that her actions were criminal and that she could get in trouble.*” (T8/112, emphasis added).

5. The trial judge’s decision.

The trial judge rendered his verdict through a written memorandum of decision, which he later amended. (R/175-178;Add62-63).⁵ The judge, “adopt[ed] the testimony from

⁵ The amended decision is included in the addendum.

both doctors that the defendant suffered from Major Depressive Disorder with Depression and Psychotic Features.” (R/176;Add63). He determined that the “real issue in this case is whether the Commonwealth proved beyond a reasonable doubt that the defendant detained the substantial capacity to appreciate the wrongfulness or criminality of her conduct as to each indictment and at specific times.” (R/176;Add63).

The trial judge concluded that Ms. Rezac was not criminally responsible for the assault and battery with a dangerous weapon, and attempted murder charges, as she lacked the capacity to appreciate the wrongfulness of her conduct during the attack of her son. (R/177;Add64).

However, he found Ms. Rezac guilty of reckless endangerment of a child, and witness intimidation, determining that Ms. Rezac “understood the wrongfulness of her actions” comprising those offenses. (R/177;Add64). He wrote:

“The court finds that after the defendant’s attack on her son, she understood what she had just done. Her decision to try and get her son not to call 911 was due to her being able to appreciate the ramifications that would follow from that call. The decision or hope that the police would not be called was not based on her earlier concerns about the hopelessness of her son’s future.”

(R/177-178;Add64-65).

ISSUES PRESENTED

1. Whether the judge's unchallenged self-instruction on criminal responsibility, which relieved the Commonwealth from proving that Ms. Rezac had the substantial capacity to appreciate *both* the criminal *and* moral import of her conduct, was reversible error.
2. Whether the lack of specificity in the child endangerment indictment, which could have applied to either of two legally distinct sets of conduct, absent objection below, raised a substantial risk of miscarriage of justice that Ms. Rezac was convicted of a crime for which she was not indicted.
3. Whether the evidence against Ms. Rezac, who moved for a required finding of not guilty, was insufficient to prove witness intimidation and child endangerment.
4. Whether the judge erred in ordering GPS monitoring as a condition of probation, over objection, despite the lack of an enforceable exclusion zone or the existence of any other valid governmental interest.

ARGUMENT

I. Contrary to the trial judge's self-instructions, the Commonwealth was required to prove that Ms. Rezac had the substantial capacity to appreciate the criminal *and* moral import of her conduct.

To establish criminal responsibility, the Commonwealth must prove "both the defendant's substantial capacity to appreciate the wrongfulness of his conduct *and* his substantial capacity to conform his conduct to the requirements of the law." *Goudreau*, 422 Mass. at 735, citing

McHoul, 352 Mass. at 546–547 (emphasis original). This case centers on the first clause of the *McHoul* test. Applied to the two convictions here—witness intimidation and child endangerment (but see *Section II, infra*)—the question was whether Ms. Rezac had the “substantial capacity to appreciate the wrongfulness” of her conduct when, following the attack on her son, she prevented him from calling police.

The judge self-instructed that the Commonwealth was required to prove that Ms. Rezac “retained the substantial capacity to appreciate the wrongfulness *or* criminality of her conduct ...” (R/176;Add63, emphasis added). He defined “wrongfulness” as the “moral significance,” and “criminality” as the “legal significance.” (R/177;Add64). In other words, the judge required the Commonwealth to establish an appreciation of *either* the criminal *or* moral import, but not both.

Massachusetts law on this point is not perfectly clear. The criminal responsibility instruction set forth in *Goudreau* provides conflicting guidance. *Goudreau* instructs that the Commonwealth must prove a defendant’s substantial capacity to appreciate the “criminality *or* wrongfulness” of her conduct. *Goudreau*, 422 Mass. at 737-738 (emphasis added). “Criminality” is the “legal import of conduct;” “wrongfulness” is the “moral import.” *Id.* This articulation suggests that the Commonwealth need only prove an appreciation of *either* the

legal *or* moral import of the conduct.

But the *Goudreau* instructions *also* require the Commonwealth to prove “that a mental disease or defect did not deprive the defendant of a meaningful understanding and intelligent comprehension of the legal *and moral* import of [her] conduct.” *Id.* at 738 (emphasis added). Under this articulation, the defendant must appreciate both the legal *and moral* import of the conduct.

The tension in *Goudreau* echoes an apparent ambiguity in this Court’s post-*McHoul* decisions, which have used the following phrases interchangeably: “appreciate the wrongfulness”; “appreciate the criminality”; and “appreciate the criminality or wrongfulness.” *Commonwealth v. Dunphe*, 485 Mass. 871, 879 (2020); *Commonwealth v. Lawson*, 475 Mass. 806, 811 (2016); *Goudreau*, 422 Mass. at 735. Undersigned counsel is unaware of any post-*McHoul* Massachusetts appellate decision specifically addressing whether “wrongfulness” includes an appreciation of both criminal *and* moral import.

Yet, a review of the development of Massachusetts law on criminal responsibility suggests that the Commonwealth must prove both. This Court’s seminal *McHoul* decision adopted the American Law Institute’s Model Penal Code’s definition of criminal responsibility based in part on the Second Circuit’s reasoning in *United States v. Freeman*, 357

F.2d 606, 622-626 (1966). See *McHoul*, 352 Mass. at 552. And in *Freeman*, the Second Circuit specifically adopted the word “wrongfulness” (not “criminality”) because that Court “wish[ed] to include the case where the perpetrator appreciates that his conduct is *criminal*, but, because of a delusion, believes it to be *morally* justified.” *Freeman*, 357 F.2d at 622 n.52 (emphasis added). Massachusetts law is thus rooted in a Second Circuit case that makes clear that the government must establish an appreciation of both criminal and moral import.

The *Freeman* formulation is compelling: it contemplates the scenario where an individual appreciates that they are committing a crime, but nevertheless goes forward with the act because of a delusion, spurred by mental illness, giving moral weight to their decision. *Freeman*, 357 F.2d at 622 n.52. See, e.g., *Bethea v. United States*, 365 A.2d 64, 80 (1976); *People v. Serravo*, 823 P.2d 128, 135 (Colo. 1992).

Here, the judge’s misinstruction was reversible error. Although both doctors determined that, when Ms. Rezac tried to prevent her son from calling police, she understood that her actions were *criminal* (T8/112;IR1/85), at no point did either doctor opine that Ms. Rezac had the substantial capacity to appreciate the *moral* import of that conduct.

Surely, the trial judge was not required to accept the uncontroverted testimony of the experts. *Commonwealth v.*

Shelly, 381 Mass. 340, 347 (1980). But the evidence otherwise suggested that Ms. Rezac had not regained the capacity to appreciate the moral import of her actions when she attempted to prevent the 911 call. Consider that *after* the prevented 911 call, Ms. Rezac: attempted suicide; “jab[ed]” herself in the neck in front of an officer; attempted to drown herself; told police “I don’t want to live anymore, leave me alone, just let me die”; evidenced a “blank stare”; and, appeared “unresponsive.” (T8/29,30,40;IR1/52). These actions suggest that she was still evidencing “cognitive distortions,” see IR1/85, particularly where both doctors relied on her suicidal nature in concluding that she was not criminally responsible for the preceding attack on her son. See IR1/85,93;T8/65-66. Moreover, that Ms. Rezac was trying to prevent police involvement did little to show an appreciation of the *moral* import of her conduct.

Indeed, the misinstruction may have influenced the verdict: the judge reasoned that Ms. Rezac was criminally responsible for the prevented 911 call because she had an “appreciation” of the “ramifications that would follow from that call” (R/177-178;Add64-65)—inferably police involvement and criminal consequences—but does not describe how Ms. Rezac regained the capacity to appreciate the *moral* implications of her behavior, particularly given her subsequent suicide attempt.

Because the facts here were largely undisputed, the case should be remanded to the trial judge, who already heard the evidence, see *Commonwealth v. Graziano*, 96 Mass. App. Ct. 601, 607-608 (2019), to reach a verdict on the witness intimidation and child endangerment charges, considering the Commonwealth’s burden to establish that Ms. Rezac had the substantial capacity to appreciate the criminal *and moral* import of her conduct.

II. Because the child endangerment conviction was never linked to a particular set of conduct—nor distinguished from the attack on her son—Ms. Rezac may have been convicted of a crime for which she was not indicted by a grand jury.

An indictment must be presented “with precision and fullness” and a defendant may not “be convicted upon evidence of another offense of the same kind, committed on the same day, but not identical with it.” *Commonwealth v. Barbosa*, 421 Mass. 547, 549, 551 (1995) (citation omitted) (grand jury heard evidence of two drug transactions on same day; indictment referred to a single act of cocaine distribution; SJC “confronted with the very real possibility that the defendant was convicted of a crime for which he was not indicted by a grand jury”).

This case follows *Barbosa*. Ms. Rezac was indicated for two sets of conduct: (1) stabbing and attempting to drown her

son (attempted murder, and assault and battery with a dangerous weapon) and (2) preventing her son from reporting the attack (witness intimidation). (IR1/3-4,6). The conduct underpinning the child endangerment indictment (IR1/5), however, is ambiguous. The grand jury could have indicted Ms. Rezac on this charge for the stabbing and attempted drowning, see G.L. c. 265, § 13L (“engaged in conduct that created [a] substantial risk” of serious bodily injury”), *or* for preventing Sam from calling police, see *Id.*, (“failed to take reasonable steps to alleviate that risk where a duty to act exists”).

The indictment itself—which lacked clarifying details—did not resolve this ambiguity. (IR1/5). Nor did the grand jury minutes, which provided no link connecting the child endangerment charge to either set of conduct. (IR1/7-28). The situation hardly became clearer at trial: there were no opening statements and the Commonwealth’s closing did not make clear which set of conduct the child endangerment offense applied.

The trial judge evidently found Ms. Rezac guilty of child endangerment based on the second set of conduct (preventing Sam from calling police). (R177-178;Add64-65). Because it is possible that the grand jury indicted Ms. Rezac for the first set of conduct (the attack on Sam), there is a “very real possibility that [Ms. Rezac] was convicted of a crime for which

[she] was not indicted by a grand jury.” *Barbosa*, 421 Mass. at 551. The ramifications of this ambiguity are significant given the verdict: Ms. Rezac was determined to be not criminally responsible for the attack on her son. (R/177;Add64).

III. The evidence of child endangerment and witness intimidation was insufficient under *Latimore*.

A. The Commonwealth failed to establish that Ms. Rezac was criminally responsible.

Assuming that the Commonwealth was required to prove *moral* appreciation, for many of the reasons discussed in *Section I, supra*, the evidence was insufficient. That the prevented 911 call occurred within moments of the attack on her son further detracts from the notion that Ms. Rezac’s suddenly became criminally responsible for the later conduct. Preventing Sam from calling authorities hardly evidenced an appreciation of the *moral* import of her conduct.

Even assuming *arguendo* that the Commonwealth only had to establish an appreciation of the *criminal* import of her conduct, the evidence fell short. Given Ms. Rezac’s *post hoc* statements about her state of mind after the attack—that she “knew the cops were coming” (IR1/82)—it is fair to infer that, on some basic level, Ms. Rezac understood that her conduct was criminal. But that is different than having the “substantial capacity” to “appreciate” the same. See

Goudreau, 422 Mass. at 737 (“substantial capacity” meant to “[e]mphasize[] that any incapacity is not sufficient, but that total incapacity is also unnecessary”; defendant must have had “meaningful understanding and intelligent comprehension” of the wrongfulness).

B. Putting aside criminal responsibility, there was insufficient evidence for each charge.

After the attack on her son (for which she was found not criminally responsible), there was no risk of “serious bodily injury” to be alleviated, as to constitute child endangerment. G.L. c. 265, § 13L (“serious bodily injury” is “bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death”). Officer Smolinsky described Sam’s injuries as a “little mark on his neck,” and “a little wound on his neck” (T8/29,34); the police report reflects that the injury to Sam was an “[a]pparant minor injury” (IR1/50); and no medical records relating to Sam were introduced at trial.

Nor did Ms. Rezac possess the requisite *mens rea* for either of the convictions. See *Commonwealth v. Coggeshall*, 473 Mass. 665, 670 (2016) (child endangerment requires proof that defendant was “actually aware of the risk” involved); G.L. c. 268, § 13B (witness intimidation punishes those who “wilfully” threatens, or attempts (or causes) physical,

emotional or economic injury to a witness or potential witness).

IV. GPS monitoring should not have been ordered.

In *Commonwealth v. Roderick*, 490 Mass. 669, 672 (2022), this Court held: “[a]bsent evidence that an effective exclusion zone would be configured in the defendant’s GPS device, the Commonwealth could not establish how GPS monitoring would further its interest in enforcing the court-ordered exclusion zone.” *Id.*

Here, at sentencing, the trial judge did *not* order an exclusion zone. Rather, over Ms. Rezac’s objection, he improperly ordered GPS monitoring to “follow up” on any unsupervised visits with the children or missed appointments. (T11/21). *Roderick* bars this use of GPS monitoring because “authorities would not receive alert messages notifying them that an individual inappropriately had entered into an exclusion zone, and police therefore would be unable to respond within a meaningful time frame.” *Roderick*, 490 Mass at 677-678.

Moreover, there were no other grounds on which the Commonwealth based its request for GPS monitoring. Nor was there any suggestion that GPS was required for general deterrence purposes; indeed, Ms. Rezac had no prior criminal record and was subject to GPS monitoring pretrial for nearly

three years without issue. (IR1/95-105). As in *Roderick*, the matter should be “remanded to the Superior Court for entry of a modified order of probation that does not include the condition of GPS monitoring.” *Id.* at 683.

CONCLUSION

This Court should grant Ms. Rezac’s application for direct appellate review to clarify the standard for criminal responsibility. It should, further, reverse the conviction and remand for the entry of not guilty judgments; or remand the case to the trial judge to reach a verdict on proper instructions; or remand to address the sentencing error.

Respectfully submitted,

/s/ John P. Warren

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Date: April 21, 2023

ADDENDUM

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53.1

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

COMMONWEALTH

vs.

JEAN REZAK

AMENDED MEMORANDUM OF DECISION

SUPERIOR COURT
CRIMINAL ACTION
No. 1883CR00225

NOV 23 2021
FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY

The defendant in the present case is charged in four indictments; Assault and Battery by Means of a Dangerous Weapon, Attempted Murder, Reckless Endangerment of a Child, and Intimidation of a Witness. A jury waived trial was held on September 29 and October 7, 2021. Ashley Murray, Ph.D., Fabian Saleh M.D., and Officer Stephen Smolinsky of the Plymouth Police Department testified. In addition, 11 exhibits were introduced into evidence, including the Criminal Responsibility Evaluations of the defendant conducted by Dr's Murray and Saleh.

DISCUSSION

The Commonwealth must prove beyond a reasonable doubt that the defendant was criminally responsible at the time the crime was committed, that is, that the defendant did not lack criminal responsibility at that time. Therefore, in the present case, it is the Commonwealth's burden to prove at least one of the following beyond a reasonable doubt:

1. That at the time of the alleged crime, the defendant did not suffer from a mental disease or defect; or

cc: JK
PR
(ikhand)
@Counse BK

2. That if the defendant did suffer from a mental disease or defect, she nonetheless retained the substantial capacity to appreciate the wrongfulness or criminality of her conduct and to conform her conduct to the requirements of the law.

These requirements focus on the cognitive as well as the volitional aspect of committing a crime.

In considering whether the Commonwealth has met its burden of proof, the court may consider all the evidence that has been presented at this trial. The court may consider the facts regarding the crime and evidence of the defendant's actions before and after the crime. The court is not required to accept all of the uncontroverted testimony of experts. *Commonwealth v. Shelley*, 381 Mass 340 (1980).

The court finds that the evidence introduced at trial establishes beyond a reasonable doubt that the defendant at the time of the crimes did suffer from a mental disease. Both doctors testified and the court adopts the testimony that the defendant suffered from a Major Depressive Disorder with Depression and Psychotic Features. The real issue in this case is whether the Commonwealth proved beyond a reasonable doubt that the defendant retained the substantial capacity to appreciate the wrongfulness or criminality of her conduct as to each indictment and at specific times.

Ashley Murray, Ph.D., a licensed clinical psychologist testified that she conducted an evaluation of the defendant regarding the issue of criminal responsibility. It was her opinion, in part, that the defendant's capacity to appreciate the moral wrongfulness of her behavior was impaired at the time of the attack.

Doctor Fabian Saleh, M.D., also testified at the trial. Dr. Saleh testified that he conducted a criminal responsibility evaluation of the defendant at the request of the Plymouth County

District Attorney's Office. as well. Dr. Saleh's opinion in part, was that the defendant suffered from a mental disease or mental defect at the time of the attack on her son. It was also Dr. Saleh's opinion that the defendant lacked the substantial capacity to appreciate the moral wrongfulness of her conduct at the time of the attack.

The court finds that the Commonwealth has failed to prove beyond a reasonable doubt that the defendant was criminally responsible on indictments I (Assault and Battery by Means of a Dangerous Weapon) and II (Attempted Murder). The Commonwealth has satisfied its burden on Indictments III (Reckless Endangerment of a Child) and IV (Intimidation of a Witness).

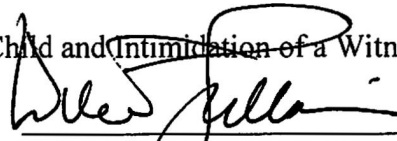
In regard to the charges of Assault and Battery by Means of a Dangerous Weapon and Attempted Murder, the court finds that the Commonwealth has not satisfied its burden to prove that the defendant retained the substantial capacity to appreciate the wrongfulness or criminality of her conduct. "Appreciate" means to understand rather than merely to know. "Criminality" means the legal significance of conduct; "wrongfulness" means the moral significance. Due to her mental disease or defect, the defendant lacked the capacity to appreciate the wrongfulness of her conduct at the time that she attacked her son.

The analysis for Indictment III (Reckless Endangerment) and Indictment IV (Intimidation of a Witness) leads to a different result. The court finds that after the defendant's attack on her son, she understood what she had just done. Her decision to try to get her son not to call 911 was due to her being able to appreciate the ramifications that would follow from that call. The decision or hope that the police would not be called was not based on her earlier concerns about the hopelessness of her son's future. The court finds that as to the charges of Reckless Endangerment and Intimidation of a Witness, the Commonwealth has proven beyond a

reasonable doubt that the defendant understood the wrongfulness of her actions and was able to control her actions.

FINDING

The court finds the defendant **NOT GUILTY BY REASON OF MENTAL ILLNESS**
OR MENTAL DEFECT of Assault and Battery by Means of a Dangerous Weapon and
Attempted Murder, and **GUILTY** of Endangerment of a Child and Intimidation of a Witness.



WILLIAM F. SULLIVAN
Justice of the Superior Court

DATE: November 29, 2021

Part IV	CRIMES, PUNISHMENTS AND PROCEEDINGS IN CRIMINAL CASES
Title I	CRIMES AND PUNISHMENTS
Chapter 265	CRIMES AGAINST THE PERSON
Section 15A	ASSAULT AND BATTERY WITH DANGEROUS WEAPON; VICTIM SIXTY OR OLDER; PUNISHMENT; SUBSEQUENT OFFENSES

Section 15A. (a) Whoever commits assault and battery upon a person sixty years or older by means of a dangerous weapon shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than one thousand dollars or imprisonment in jail for not more than two and one-half years.

Whoever, after having been convicted of the crime of assault and battery upon a person sixty years or older, by means of a dangerous weapon, commits a second or subsequent such crime, shall be punished by imprisonment for not less than two years. Said sentence shall not be reduced until two years of said sentence have been served nor shall the person convicted be eligible for probation, parole, furlough, work release or receive any deduction from his sentence for good conduct until he shall have served two years of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or

the administrator of a county correctional institution, grant to said offender a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of next of kin or spouse; to visit a critically ill close relative or spouse; or to obtain emergency medical services unavailable at said institution. The provisions of section eighty-seven of chapter two hundred and seventy-six relating to the power of the court to place certain offenders on probation shall not apply to any person 18 years of age or over charged with a violation of this subsection.

(b) Whoever commits an assault and battery upon another by means of a dangerous weapon shall be punished by imprisonment in the state prison for not more than 10 years or in the house of correction for not more than 2 1/2 years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.

(c) Whoever:

(i) by means of a dangerous weapon, commits an assault and battery upon another and by such assault and battery causes serious bodily injury;

(ii) by means of a dangerous weapon, commits an assault and battery upon another who is pregnant at the time of such assault and battery, knowing or having reason to know that the person is pregnant;

(iii) by means of a dangerous weapon, commits an assault and battery upon another who he knows has an outstanding temporary or permanent vacate, restraining or no contact order or judgment issued pursuant to section 18, section 34B or section 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 or 20 of chapter 209C, in effect against him at the time of such assault and battery; or

(iv) is 18 years of age or older and, by means of a dangerous weapon, commits an assault and battery upon a child under the age of 14;

shall be punished by imprisonment in the state prison for not more than 15 years or in the house of correction for not more than 2 1/2 years, or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(d) For the purposes of this section, "serious bodily injury" shall mean bodily injury which results in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of death.

Part IV	CRIMES, PUNISHMENTS AND PROCEEDINGS IN CRIMINAL CASES
Title I	CRIMES AND PUNISHMENTS
Chapter 265	CRIMES AGAINST THE PERSON
Section 16	ATTEMPT TO MURDER

Section 16. Whoever attempts to commit murder by poisoning, drowning or strangling another person, or by any means not constituting an assault with intent to commit murder, shall be punished by imprisonment in the state prison for not more than twenty years or by a fine of not more than one thousand dollars and imprisonment in jail for not more than two and one half years.

Part IV CRIMES, PUNISHMENTS AND PROCEEDINGS IN CRIMINAL CASES

Title I CRIMES AND PUNISHMENTS

Chapter 268 CRIMES AGAINST PUBLIC JUSTICE

Section 13B INTIMIDATION OF WITNESSES, JURORS AND PERSONS FURNISHING INFORMATION IN CONNECTION WITH CRIMINAL PROCEEDINGS

Section 13B. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:—

"Investigator", an individual or group of individuals lawfully authorized by a department or agency of the federal government or any political subdivision thereof or a department or agency of the commonwealth or any political subdivision thereof to conduct or engage in an investigation of, prosecution for, or defense of a violation of the laws of the United States or of the commonwealth in the course of such individual's or group's official duties.

"Harass", to engage in an act directed at a specific person or group of persons that seriously alarms or annoys such person or group of persons and would cause a reasonable person or group of persons to suffer substantial emotional distress including, but not limited to, an act conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, a

device that transfers signs, signals, writing, images, sounds, data or intelligence of any nature, transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photo-optical system including, but not limited to, electronic mail, internet communications, instant messages and facsimile communications.

(b) Whoever willfully, either directly or indirectly: (i) threatens, attempts or causes physical, emotional or economic injury or property damage to; (ii) conveys a gift, offer or promise of anything of value to; or (iii) misleads, intimidates or harasses another person who is a: (A) witness or potential witness; (B) person who is or was aware of information, records, documents or objects that relate to a violation of a criminal law or a violation of conditions of probation, parole, bail or other court order; (C) judge, juror, grand juror, attorney, victim witness advocate, police officer, correction officer, federal agent, investigator, clerk, court officer, court reporter, court interpreter, probation officer or parole officer; (D) person who is or was attending or a person who had made known an intention to attend a proceeding described in this section; or (E) family member of a person described in this section, with the intent to or with reckless disregard for the fact that it may; (1) impede, obstruct, delay, prevent or otherwise interfere with: a criminal investigation at any stage, a grand jury proceeding, a dangerousness hearing, a motion hearing, a trial or other criminal proceeding of any type or a parole hearing, parole violation proceeding or probation violation proceeding; or an administrative hearing or a probate or family court proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk's hearing, court-ordered mediation or any other civil proceeding of any type; or (2) punish, harm or otherwise retaliate against any such person described in this section for such person or such person's family member's

participation in any of the proceedings described in this section, shall be punished by imprisonment in the state prison for not more than 10 years or by imprisonment in the house of correction for not more than 21/2 years or by a fine of not less than \$1,000 or more than \$5,000 or by both such fine and imprisonment. If the proceeding in which the misconduct is directed at is the investigation or prosecution of a crime punishable by life imprisonment or the parole of a person convicted of a crime punishable by life imprisonment, such person shall be punished by imprisonment in the state prison for not more than 20 years or by imprisonment in the house of corrections for not more than 21/2 years or by a fine of not more than \$10,000 or by both such fine and imprisonment.

(c) A prosecution under this section may be brought in the county in which the criminal investigation, trial or other proceeding was being conducted or took place or in the county in which the alleged conduct constituting the offense occurred.

Part IV	CRIMES, PUNISHMENTS AND PROCEEDINGS IN CRIMINAL CASES
Title I	CRIMES AND PUNISHMENTS
Chapter 265	CRIMES AGAINST THE PERSON
Section 13L	WANTON OR RECKLESS BEHAVIOR CREATING A RISK OF SERIOUS BODILY INJURY OR SEXUAL ABUSE TO A CHILD; DUTY TO ACT; PENALTY

Section 13L. For the purposes of this section, the following words shall have the following meanings:—

"Child", any person under 18 years of age.

"Serious bodily injury", bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death.

"Sexual abuse", an indecent assault and battery on a child under 14 under section 13B of chapter 265; aggravated indecent assault and battery on a child under 14 under section 13B1/2 of said chapter 265; a repeat offense under section 13B3/4 of said chapter 265; indecent assault and battery on a person age 14 or over under section 13H of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; aggravated rape of a child under 16 with force under section 22B of said chapter 265; a repeat offense

under section 22C of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; aggravated rape and abuse of a child under section 23A of said chapter 265; a repeat offense under section 23B of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; and assault of a child with intent to commit rape under section 24B of said chapter 265.

Whoever wantonly or recklessly engages in conduct that creates a substantial risk of serious bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act shall be punished by imprisonment in the house of correction for not more than 2 1/2 years.

For the purposes of this section, such wanton or reckless behavior occurs when a person is aware of and consciously disregards a substantial and unjustifiable risk that his acts, or omissions where there is a duty to act, would result in serious bodily injury or sexual abuse to a child. The risk must be of such nature and degree that disregard of the risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the rules of court that pertain to the filing of briefs, including, but not limited to: Mass. R. A. P. 11; Mass. R. A. P. 16(a)(13); Mass. R. A. P. 16(e); Mass. R. A. P. 18; Mass. R. A. P. 20; and Mass. R. A. P. 21. The brief is printed in Century Schoolbook font and the Argument Section does not exceed 2,000 words. That section consists of 1,979 words as tallied by the word count function of Microsoft Word.

April 21, 2023

Date

/s/ John P. Warren

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CERTIFICATE OF SERVICE

I, John P. Warren, do certify that I served the enclosed Application for Direct Appellate Review electronically upon the Commonwealth through the efilings system, to:

Arne Hantson
Office of the District Attorney/Plymouth
166 Main Street
Brockton, MA 02301

on this 21st Day of April, 2023.

/s/ John P. Warren
John P. Warren



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April 21, 2023

Clerk's Office
Supreme Judicial Court
John Adams Courthouse
One Pemberton Square, Suite 2500
Boston, MA 02108

Re: Commonwealth v. Jean Rezac (DAR-29310)

Dear Mister/Madam Clerk:

Please find enclosed a copy of the Trial Court docket entries relating to the above-referenced docket, which opened today (April 21, 2023).

Thank you for your attention to this. Please do not hesitate to contact me with any questions.

Sincerely,

/s/ John P. Warren
John P. Warren
Attorney

1883CR00225 Commonwealth vs. Rezac, Jean

- Case Type:
- Indictment
- Case Status:
- Open
- File Date
- 06/26/2018
- DCM Track:
- B - Complex
- Initiating Action:
- A&B WITH DANGEROUS WEAPON c265 §15A(b)
- Status Date:
- 07/16/2018
- Case Judge:
-
- Next Event:
-

[All Information](#) [Party](#) [Charge](#) [Event](#) [Tickler](#) [Docket](#) [Disposition](#)

Party Information

Plymouth County District Attorney
- Prosecutor

[Alias](#)

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[More Party Information](#)

Rezac, Jean
- Defendant

[Alias](#)

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[More Party Information](#)

Party Charge Information

- **Rezac, Jean**
- - Defendant

Charge # 1:
265/15A/A-1 - Felony A&B WITH DANGEROUS WEAPON c265 §15A(b)

- Original Charge
- 265/15A/A-1 A&B WITH DANGEROUS WEAPON c265 §15A(b) (Felony)
- Indicted Charge
-
- Amended Charge
-

Charge Disposition

Disposition Date
Disposition
10/22/2021
Not Guilty Finding
11/29/2021
Finding of Not Guilty by Reason of Insanity

- **Rezac, Jean**
- - Defendant
- **Charge # 2:**
265/16-0 - Felony MURDER, ATTEMPTED c265 §16

- Original Charge
- 265/16-0 MURDER, ATTEMPTED c265 §16 (Felony)
- Indicted Charge
-
- Amended Charge
-

Charge Disposition

Disposition Date
Disposition
10/22/2021
Not Guilty Finding
11/29/2021
Finding of Not Guilty by Reason of Insanity

- **Rezac, Jean**
- - Defendant
- **Charge # 3:**
265/13L-0 - Misdemeanor - more than 100 days incarceration RECKLESS ENDANGERMENT OF CHILD c265 §13L

- Original Charge
- 265/13L-0 RECKLESS ENDANGERMENT OF CHILD c265 §13L (Misdemeanor - more than 100 days incarceration)
- Indicted Charge
-
- Amended Charge
-

Charge Disposition

Disposition Date
Disposition
10/22/2021
Guilty Finding

- **Rezac, Jean**
- - Defendant
- **Charge # 4:**
268/13B/A-5 - Felony WITNESS/JUROR/POLICE/COURT OFFICIAL, INTIMIDATE c268 §13B

- Original Charge
- 268/13B/A-5 WITNESS/JUROR/POLICE/COURT OFFICIAL, INTIMIDATE c268 §13B (Felony)
- Indicted Charge
-
- Amended Charge
-

Charge Disposition

Disposition Date
Disposition
10/22/2021
Guilty Finding

Events

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
07/16/2018 09:00 AM	Criminal 1 Brockton		Arraignment	Moriarty, II, Hon. Cornelius J	Held as Scheduled
07/18/2018 09:00 AM	Criminal 1 Brockton		58A Dangerousness Hearing	Moriarty, II, Hon. Cornelius J	Not Held

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
07/19/2018 11:30 AM	Criminal 1 Brockton		58A Dangerousness Hearing	Moriarty, II, Hon. Cornelius J	Held as Scheduled
08/02/2018 09:00 AM	Criminal 1 Brockton		Hearing for Appearance / Appointment of Counsel	Moriarty, II, Hon. Cornelius J	Held as Scheduled
08/17/2018 02:00 PM	Criminal 4 Plymouth		Hearing for Appearance / Appointment of Counsel	Hallal, Hon. Mark A	Canceled
08/22/2018 02:00 PM	Criminal 1 Brockton		Hearing on Competency	Moriarty, II, Hon. Cornelius J	Rescheduled
09/10/2018 09:00 AM	Criminal 1 Brockton		Hearing on Competency	Moriarty, II, Hon. Cornelius J	Held as Scheduled
09/21/2018 02:00 PM	Criminal 1 Brockton		Hearing on Competency	Moriarty, II, Hon. Cornelius J	Held - Under advisement
09/26/2018 09:00 AM	Criminal 1 Brockton		Hearing on Competency	Moriarty, II, Hon. Cornelius J	Held as Scheduled
10/16/2018 09:00 AM	Criminal 1 Brockton		Hearing on Competency	Cosgrove, Hon. Robert C	Not Held
10/30/2018 09:00 AM	Criminal 1 Brockton		Hearing on Competency	Cosgrove, Hon. Robert C	Not Held
11/05/2018 09:00 AM	Criminal 1 Brockton		Hearing on Competency	Cosgrove, Hon. Robert C	Held as Scheduled
11/06/2018 09:00 AM	Criminal 1 Brockton		Bail Hearing	Cosgrove, Hon. Robert C	Held as Scheduled
12/17/2018 09:00 AM	Criminal 1 Brockton		Conference to Review Status	Cosgrove, Hon. Robert C	Held as Scheduled
01/15/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Conference to Review Status		Held as Scheduled
01/29/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Motion Hearing	Kelley, Hon. Angel	Not Held
02/01/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Motion Hearing	Kelley, Hon. Angel	Held as Scheduled
02/05/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Motion Hearing	Kelley, Hon. Angel	Held as Scheduled
02/14/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Conference to Review Status	Kelley, Hon. Angel	Held as Scheduled
03/12/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Conference to Review Status	Kelley, Hon. Angel	Held as Scheduled
03/22/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Conference to Review Status	Kelley, Hon. Angel	Held as Scheduled
03/29/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Conference to Review Status	Kelley, Hon. Angel	Held as Scheduled
04/01/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Conference to Review Status		Held as Scheduled
06/24/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Conference to Review Status		Held as Scheduled
08/08/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Conference to Review Status		Held as Scheduled
09/24/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Conference to Review Status		Held as Scheduled
10/10/2019 09:00 AM	Criminal 1 Brockton	BRO-2nd FL, CR1 (SC)	Conference to Review Status		Held as Scheduled
01/06/2020 09:00 AM	Criminal 4 Plymouth		Final Pre-Trial Conference		Rescheduled
01/08/2020 09:00 AM	Criminal 4 Plymouth		Jury Trial		Not Held
01/09/2020 02:00 PM	Criminal 4 Plymouth		Final Pre-Trial Conference		Held as Scheduled
02/14/2020 09:00 AM	Criminal 4 Plymouth		Jury Waived Trial		Not Held

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
03/09/2020 02:00 PM	Criminal 4 Plymouth		Final Pre-Trial Conference		Held as Scheduled
03/10/2020 12:00 PM	Criminal 4 Plymouth		Lobby Conference		Rescheduled
03/12/2020 02:00 PM	Criminal 4 Plymouth		Hearing for Change of Plea		Rescheduled
03/17/2020 09:00 AM	Criminal 4 Plymouth		Hearing for Change of Plea		Not Held
03/23/2020 02:00 PM	Criminal 4 Plymouth		Jury Waived Trial		Not Held
04/07/2020 09:00 AM	Criminal 4 Plymouth		Hearing for Change of Plea		Rescheduled
05/06/2020 09:00 AM	Criminal 4 Plymouth		Hearing for Change of Plea		Rescheduled-Covid-19 emergency
07/24/2020 10:30 AM	Criminal 4 Plymouth		Hearing for Change of Plea		Rescheduled
07/28/2020 02:00 PM	Criminal 4 Plymouth		Hearing for Change of Plea		Not Held
03/01/2021 12:15 PM	Criminal 4 Plymouth		Lobby Conference		Held as Scheduled
03/22/2021 02:00 PM	Criminal 4 Plymouth		Final Pre-Trial Conference		Not Held
03/29/2021 09:00 AM	Criminal 4 Plymouth		Jury Trial		Not Held
03/29/2021 10:00 AM	Criminal 4 Plymouth		Conference to Review Status		Not Held
04/29/2021 02:00 PM	Criminal 4 Plymouth		Conference to Review Status		Not Held
05/07/2021 03:00 PM	Criminal 4 Plymouth		Conference to Review Status		
08/19/2021 12:00 PM	Criminal 4 Plymouth		Lobby Conference		Held as Scheduled
09/29/2021 09:00 AM	Criminal 3 Plymouth		Jury Waived Trial		Held as Scheduled
10/07/2021 02:00 PM	Criminal 1 Brockton		Jury Waived Trial		Held as Scheduled
10/25/2021 02:00 PM	Criminal 1 Brockton		Hearing for Sentence Imposition		Rescheduled
11/19/2021 02:00 PM	Criminal 1 Brockton		Hearing for Sentence Imposition		Rescheduled
11/30/2021 02:00 PM	Criminal 1 Brockton		Hearing for Sentence Imposition		Held as scheduled
12/16/2021 02:00 PM	Criminal 1 Brockton		Hearing for Sentence Imposition		Rescheduled
01/14/2022 10:00 AM	Criminal 2 Brockton		Hearing for Sentence Imposition		Held as Scheduled

Ticklers

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Days Due</u>	<u>Completed Date</u>
Pre-Trial Hearing	07/16/2018	11/28/2018	135	01/09/2020
Final Pre-Trial Conference	07/17/2018	03/29/2019	255	01/09/2020
Case Disposition	07/16/2018	04/12/2019	270	01/14/2022

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
06/27/2018	Indictment(s) returned	1	Image
07/05/2018	Habeas Corpus for defendant issued to MCI - Framingham returnable for 07/16/2018 09:00 AM Arraignment.	2	
07/16/2018	Attorney appearance On this date Ian Thomas Davis, Esq. added as Limited Appearance Counsel for Defendant Jean Rezac		
07/16/2018	Defendant arraigned before Court.		
07/16/2018	Plea of not guilty entered on all charges.		
07/16/2018	Commonwealth 's Motion Order of Pretrial Detention In The Alternative, Conditional Release Based On Dangerousness Allowed and continued to 7/18/18 for hearing on dangerousness	3	
07/16/2018	Case continued until 7/18/18 for dangerousness hearing. Atty Ian Davis only appointed for arraignment and dangerousness hearing. (Moriarty,J)(FTR)		
07/16/2018	General correspondence regarding ADA Jeremy Kusmin files her appearance on behalf of the Commonwealth	3.1	Image
07/16/2018	The defendant\petitioner is committed without bail for the following reason: Pending dangerousness hearing. Judge: Moriarty, II, Hon. Cornelius J	4	
07/16/2018	Bail warnings read		
07/17/2018	Defendant 's Motion For Funds	5	
07/17/2018	Sent to Registry of Motor Vehicles, Department of Revenue and Department of Transitional Assistance: Notice of Unpaid Legal Counsel Fees Sent On: 07/17/2018 08:49:37	6	
07/17/2018	Case assigned to: DCM Track B - Complex was added on 07/17/2018		
07/17/2018	Habeas Corpus for defendant issued to MCI - Framingham returnable for 07/18/2018 09:00 AM Bail (58A).	7	
07/17/2018	Event Result:: Bail (58A) scheduled on: 07/18/2018 09:00 AM Has been: Not Held For the following reason: Commonwealth Requests that dangerousness hearing be continued to July 19, 2018 with the assent of defense counsel Request of Commonwealth Hon. Cornelius J Moriarty, II, Presiding Appeared: Staff: Patrick W Creedon, Assistant Clerk Magistrate Judge: Moriarty, II, Hon. Cornelius J		
07/17/2018	Scheduled: Judge: Moriarty, II, Hon. Cornelius J Event: Bail (58A) Date: 07/19/2018 Time: 11:30 AM Result: Held as Scheduled		
07/17/2018	Habeas Corpus for defendant issued to MCI - Framingham returnable for 07/19/2018 11:30 AM Bail (58A).	8	
07/18/2018	Mittimus returned to court: SERVED	8.1	
07/19/2018	The defendant\petitioner is committed without bail for the following reason: Held due to dangerousness C.276 § 58A. Judge: Moriarty, II, Hon. Cornelius J	9	
07/19/2018	Commonwealth 's Motion For Court Order to Restrict Discovery of Videotapes Filed and Allowed	10	
07/19/2018	Mittimus returned to court: SERVED	12	
07/19/2018	Findings and Order on Motion for Detention pursuant to G.L. c. 276 § 58A. Judge: Moriarty, II, Hon. Cornelius J Judge: Moriarty, II, Hon. Cornelius J Judge: Moriarty, II, Hon. Cornelius J	11	Image
07/19/2018	Case called for dangerousness hearing before Judge Moriarty. After hearing, Court orders defendant held without bail due to dangerousness. Case continued until 8/17/18 for Appearance of Counsel at 2 pm.		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	Case and Exhibits from hearing sent to Plymouth. (Moriarty,J)(FTR)		
08/01/2018	Habeas Corpus for defendant issued to MCI - Cedar Junction (at Walpole) returnable for 08/02/2018 09:00 AM Hearing for Appearance / Appointment of Counsel.	13	
08/02/2018	Attorney appearance On this date Brian A Kelley, Esq. added as Private Counsel for Defendant Jean Rezac	13.1	Image
08/02/2018	Other RecordsEvaluation of Competency To Stand Trial Pursuant to MGL CH123 sec 15 received from Forensic Health Services	15	
08/02/2018	Attorney appearance On this date Ian Thomas Davis, Esq. dismissed/withdrawn as Limited Appearance Counsel for Defendant Jean Rezac		
08/02/2018	Defendant committed for observation to Solomon Carter Fuller Mental Health Center to determine Competence to Stand Trial per G.L. c. 123 § 15(b). Judge: Moriarty, II, Hon. Cornelius J	14	
08/02/2018	Defendant brought into Court. Atty Brian Kelley appears for the defendant. Court orders MGL 123 sec15(a) evaluation for competency. Dr. Heather Jackson sworn and recommends further evaluation. After hearing Court orders MGL ch 123 sec (b) evaluation and defendant to receive treatment at Dr. Solomon Carter Mental Health Center RE: Competency. Continued to 8/22/18 @ 2pm for hearing on Competency. Commonwealth's oral motion for copy of 123 15(b) evaluation taken under advisement. (Moriarty,J)(FTR)		
08/02/2018	CASE SENT TO BROCKTON		
08/20/2018	Other 's Request for extension of observational commitment filed by Solomon Carter Fuller Mental Health Center	16	
08/21/2018	Event Result:: Hearing on Competency scheduled on: 08/22/2018 02:00 PM Has been: Rescheduled For the following reason: By Court prior to date Comments: Solomon Carter Fuller Mental Health Center requested an extension on the 15(b) Hon. Cornelius J Moriarty, II, Presiding Appeared: Staff: Patrick W Creedon, Assistant Clerk Magistrate		
08/21/2018	Endorsement on Request for extension of observational commitment, (#16.0): ALLOWED Judge: Moriarty, II, Hon. Cornelius J		
09/07/2018	Habeas Corpus for defendant issued to Solomon Carter Fuller Mental Health Center returnable for 09/10/2018 09:00 AM Hearing on Competency.	17	
09/07/2018	Defendant 's EX PARTE Motion for funds for forensic psychologist (2nd request): filed and no action taken (Pasquale, J.)	17.1	
09/10/2018	Evaluation report from (Hebert Georges MD) filed	18	
09/10/2018	The defendant\petitioner is committed without bail for the following reason: Pending dangerousness hearing. Judge: Moriarty, II, Hon. Cornelius J	19	
09/10/2018	After hearing case continued to September 21,2018 for further hearing re: competency at 2:00PM (deft remanded to MCI Framingham habe in deft) FTR Judge: Moriarty, II, Hon. Cornelius J		
09/10/2018	Endorsement on Motion for funds for forensic psychologist (2nd request), (#17.1): ALLOWED Judge: Moriarty, II, Hon. Cornelius J		
09/11/2018	Habeas Corpus for defendant issued to MCI - Framingham returnable for 09/21/2018 02:00 PM Hearing on Competency. be here by 1:00PM Applies To: Rezac, Jean (Defendant); MCI - Framingham (Holding Institution)	20	
09/18/2018	Mental Health Records received from Department of Mental Health Metro South East Area, Solomon Carter Fuller Mental Health Center/ Jeanne Antille regarding Commonwealth vs Jean Rezac		
09/21/2018	Attorney appearance On this date Patricia Jardim Reilly, Esq. added as Attorney for the Commonwealth for Prosecutor Plymouth County District Attorney	21	Image
09/21/2018	Defendant 's Motion for a criminal responsibility examination pursuant to M.G.L. c123 section 15(a)	22	

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
09/21/2018	After hearing, competency taken under advisement. Court orders defendant to be examined under M.G.L. 123 sec.15(a) re: criminal responsibility. Case continued to September 26, 2018 re: criminal responsibility evaluation. (Moriarty, J.) FTR Judge: Moriarty, II, Hon. Cornelius J		
09/21/2018	Order for examination of defendant as to Criminal Responsibility issued pursuant to G.L.c. 123, § 15(a). Judge: Moriarty, II, Hon. Cornelius J	24	
09/25/2018	Habeas Corpus for defendant issued to MCI - Framingham returnable for 09/26/2018 09:00 AM Hearing on Competency.	23	
09/26/2018	Defendant committed for observation to Worcester Recovery Center and Hospital to determine Criminal Responsibility per G.L. c. 123 § 15(b). Judge: Moriarty, II, Hon. Cornelius J	25	
09/26/2018	Findings of Fact and Rulings of Law: On Defendant's Motion For a Judicial Determination Of Competency Judge: Moriarty, II, Hon. Cornelius J	26	
09/26/2018	Court finds defendant competent to stand trial. Court orders 123 ch 15(a) evaluation. After hearing Dr. Karen Tower present Court orders 123 sec 15(b) evaluation at Worcester Recovery Center. Continued until 10/16/18 for hearing on criminal responsibility and pretrial conference. (Moriarty,J)(FTR)		
10/11/2018	Other 's Request for extension of observational commitment filed by Dr. Ashley Murray PhD	27	
10/15/2018	Event Result:: Hearing on Competency scheduled on: 10/16/2018 09:00 AM Has been: Not Held For the following reason: Other event activity needed Comments: Treatment center having filed extension to file report. Case continued to October 30, 2018 for competency hearing Hon. Robert C Cosgrove, Presiding Appeared: Staff: Patrick W Creedon, Assistant Clerk Magistrate		
10/15/2018	Endorsement on Request for extension of observational commitment, (#27.0): ALLOWED case continued to 10/30/18 for hearing on competency (Chin, J.) Judge: Chin, Hon. Richard J		
10/29/2018	Event Result:: Hearing on Competency scheduled on: 10/30/2018 09:00 AM Has been: Not Held For the following reason: Not reached by Court court unavailable this date. Continued to November 5, 2018 for hearing on competency Hon. Robert C Cosgrove, Presiding Appeared: Staff: Patrick W Creedon, Assistant Clerk Magistrate Judge: Cosgrove, Hon. Robert C		
10/30/2018	Endorsement on Motion for extension of observational commitment, (#27.0): Court is unavailable for competency hearing on October 30,2018. Case continued to November 5, 2018 for hearing on criminal responsiilty Habe to issue Judge: Cosgrove, Hon. Robert C		
10/30/2018	Habeas Corpus for defendant issued to Worcester Recovery Center and Hospital returnable for 11/05/2018 09:00 AM Hearing on Competency.	28	
11/01/2018	Endorsement on Motion request for extension of observational commitment, (#27.0): Defendant to be held at Worcester recovery center until 11/5/18 hearing Judge: Kelley, Hon. Angel		
11/05/2018	Habeas Corpus for defendant issued to MCI - Framingham returnable for 11/06/2018 09:00 AM Bail Hearing.	29	
11/05/2018	Bail set at \$0.00 Surety, \$5,000.00 Cash. 1. Must reside with Ian Monteith at 36 Hawks Way, Falmouth 2. GPS Monitoring with home confinement at the address stated unless at medical appointments 3. Comply with all mental health, including attending all appointments as outlined in discharge plan or subsequently modified plan, following all recommendations and taking all medications as prescribed. 4. Sign and do not rescind waivers for probation to monitor compliance with treatment. 5 No unsupervised contact with children at all - telephone contact immediately		

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	6 No physical contact with the children until deemed therapeutically appropriate by the children's therapist (and defendant's therapist or DCF. 7. Comply with all DCF service plan requirements. 8 Sign and do not rescind all waivers for probation to monitor compliance with DCR service plan. 9. Attend all DCF and Treatment appointments, including those to set up services Judge: Cosgrove, Hon. Robert C		
11/05/2018	Issued on this date: Mittimus in Lieu of Bail Sent On: 11/05/2018 16:22:38	30	
11/05/2018	After hearing, oral motion for bail allowed. Defendant ordered to recognize in the amount of \$5000.00 (conditions attached) Continued to 11/6/18 for bail. Continued to 12/17/18 for status. Court orders the Commonwealth to receive a copy of evaluation report. (Cosgrove,J)(FTR)		
11/05/2018	Finding and Order on Bail: Judge: Cosgrove, Hon. Robert C Judge: Cosgrove, Hon. Robert C	30.1	
11/05/2018	Mental Health Records received from Worcester Recovery Center	30.2	
11/06/2018	Defendant brought in to be hooked up to GPS		
11/07/2018	Mittimus returned to court: UNSERVED	32	
12/17/2018	Case continued to January 15,2019 by agreement for status & motion to modify conditions (Cosgrove,J) FTR		
01/15/2019	Defendant 's Motion to modify conditions of release	33	
01/15/2019	After hearing no action taken on motion to modify conditions . Continued to January 29,2019 for hearing on motion to modify change of conditions will be determined after consultation with DCF and therapist (Kelley,J) FTR		
01/29/2019	Defense counsel on trial and continued until 2/1/19 for motion to amend conditions (Kelley,J)(FTR)		
02/01/2019	Case continued to February 5,2019 by agreement for motion to amend condition FTR		
02/05/2019	Defendant 's Notice Of Defendant Pursuant To M.R.C.P. 14(2)(A)	34	
02/05/2019	Endorsement on Motion Motion To Modify Condition Of Release, (#33.0): Other action taken Allowed in part. Ms. Rezac may leave home on Monday, Wednesday, Thursday from 11am to 3pm to seek employment, gym, or shopping. Defendant may not have employment that involves children. No action taken as to request for Saturday visitation with daughter pending probation report on being therapeutically cleared. Judge: Kelley, Hon. Angel		
02/05/2019	Case continued until 2/14/19 and 3/13/19 for status (Kelley,J)(FTR)		
02/14/2019	Case continued to 3/12/19 by agreement for status- visits requested on behalf of defendant will be contingent (Kelley, J) FTR		
03/08/2019	Commonwealth 's Motion for psychiatric examination of defendant	35	
03/12/2019	Case continued to March 22,2019 by agreement for status defense attorney on trial FTR		
03/22/2019	Defendant 's Motion To Modify Conditions Of Release (2nd Request) Allowed to the extent curfew lifted from 9 am to 12 pm on Monday 3/25/19. Also from 11 am to 3 pm every Saturday for visitation. (Kelley,J)(FTR)	36	
03/22/2019	Endorsement on Motion For psychiatric examination of defendant, (#35.0): ALLOWED Judge: Kelley, Hon. Angel		
03/22/2019	Case continued until 6/24/19 for status of discovery		
03/29/2019	Case continued to April 1,2019 by agreement for status FTR		
04/01/2019	Defendant 's Supplement to the defendant's motion to modify conditions of release (2nd request); Filed and Allowed to the extent that curfew from 7:00AM-12:00PM M-F. All other conditions remain in full forces and effect. Defendant now ordered to report to probation weekly copies mailed April 2,2019 Judge: Kelley, Hon. Angel	37	

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
04/01/2019	Event Result:: Conference to Review Status scheduled on: 04/01/2019 09:00 AM Has been: Held as Scheduled Comments: FTR Hon. Angel Kelley, Presiding Appeared: Staff: Patrick W Creedon, Assistant Clerk Magistrate		
06/24/2019	Case continued until 8/8/19 for status by agreement. (Gildea,J)(FTR)		
08/08/2019	Event Result:: Conference to Review Status scheduled on: 08/08/2019 09:00 AM Has been: Held as Scheduled Hon. Gregg J Pasquale, Presiding Staff: Patrick W Creedon, Assistant Clerk Magistrate		
09/24/2019	Case continued until 10/10/19 for status. (Pasquale,J)(FRT)		
10/08/2019	Evaluation report from Fabian M Saleh MD filed	38	
10/10/2019	Case continued to January 6,2020 at 9:00am for final pre-trial conference and January 8,2020 for trial Fourth Criminal Session		
10/11/2019	Notice sent to counsel about final pre-trial conference scheduled for January 6,2019 at 9:00AM Fourth Criminal Session in Plymouth	39	
10/11/2019	Notice sent to counsel about trial scheduled for January 8,2020 Fourth Criminal Session	40	
10/11/2019	Case sent to Plymouth Superior - PLYMOUTH Location. along with dangerousness hearing exhibits and records from Department of Mental Health(Metro South East Area Solomon Carter Fuller Mental Health Center)		
01/06/2020	Event Result:: Final Pre-Trial Conference scheduled on: 01/06/2020 09:00 AM Has been: Rescheduled For the following reason: Joint request of parties Hon. Cornelius J Moriarty, II, Presiding		
01/06/2020	Event Result:: Jury Trial scheduled on: 01/08/2020 09:00 AM Has been: Not Held For the following reason: By Court prior to date Hon. Cornelius J Moriarty, II, Presiding		
01/09/2020	Case continued to February 14,2020 by agreement for jury waived trial @ 9:00AM in 4th session @ Plymouth (Moriarty,J) FTR		
01/09/2020	Plymouth County District Attorney's Memorandum pretrial hearing memorandum	41	
01/10/2020	General correspondence regarding Notice sent to counsel & DA of February 14,2020 jury waived trial @ 9:00AM in 4th session @ Plymouth	42	
02/10/2020	Defendant 's Motion to continue; Denied (Moriarty,J)	43	
02/13/2020	Defendant files sentence recommendation	44	
02/13/2020	Evaluation report from Ashley Murray,PhD. filed	45	
02/13/2020	Evaluation report from of Dr Daignault filed	46	
02/14/2020	Document: Notice to Appear for Final Pretrial Sent On: 02/14/2020 11:53:34		
02/14/2020	Event Result:: Jury Waived Trial scheduled on: 02/14/2020 09:00 AM Has been: Not Held For the following reason: Request of Defendant Hon. Cornelius J Moriarty, II, Presiding		
02/18/2020	Defendant 's Motion for funds filed and allowed (Moriarty,J)	47	
03/09/2020	Event Result:: Final Pre-Trial Conference scheduled on: 03/09/2020 02:00 PM Has been: Held as Scheduled Hon. Cornelius J Moriarty, II, Presiding		
03/10/2020	Event Result:: Lobby Conference scheduled on: 03/10/2020 12:00 PM		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	Has been: Rescheduled For the following reason: Request of Defendant Hon. Cornelius J Moriarty, II, Presiding		
03/12/2020	Event Result:: Hearing for Change of Plea scheduled on: 03/12/2020 02:00 PM Has been: Rescheduled For the following reason: By Court prior to date Hon. Cornelius J Moriarty, II, Presiding		
03/17/2020	Event Result:: Hearing for Change of Plea scheduled on: 03/17/2020 09:00 AM Has been: Not Held For the following reason: By Court due to Covid-19 Hon. Cornelius J Moriarty, II, Presiding		
03/19/2020	Event Result:: Jury Waived Trial scheduled on: 03/23/2020 02:00 PM Has been: Not Held For the following reason: By Court due to Covid-19 Hon. Cornelius J Moriarty, II, Presiding		
03/19/2020	The following form was generated: Notice to Appear Sent On: 03/19/2020 11:33:27		
04/01/2020	The following form was generated: Notice to Appear Sent On: 04/01/2020 11:05:18		
04/02/2020	Event Result:: Hearing for Change of Plea scheduled on: 04/07/2020 09:00 AM Has been: Rescheduled For the following reason: By Court due to Covid-19 Hon. Cornelius J Moriarty, II, Presiding		
05/06/2020	Court orders rescheduling due to State of Emergency surrounding the Covid-19 virus.: Hearing for Change of Plea scheduled on: 05/06/2020 09:00 AM Has been: Rescheduled-Covid-19 emergency Hon. Cornelius J Moriarty, II, Presiding		
07/15/2020	Event Result:: Hearing for Change of Plea scheduled on: 07/24/2020 10:30 AM Has been: Rescheduled For the following reason: By Court prior to date Hon. Cornelius J Moriarty, II, Presiding		
07/28/2020	Case continued to 03/22/2021 for Final Pre-Trial Conference @ 2:00pm by agreement Trial scheduled for 03/29/2021 @ 9:00am Notices sent FTR		
02/03/2021	ORDER: Re: Lobby conference on 03/01/2021 at 12:15PM in the 4th session Judge: Hallal, Hon. Mark A	48	Image
03/01/2021	Event Result:: Final Pre-Trial Conference scheduled on: 03/22/2021 02:00 PM Has been: Not Held For the following reason: Other event activity needed Hon. Mark A Hallal, Presiding		
03/01/2021	Event Result:: Jury Trial scheduled on: 03/29/2021 09:00 AM Has been: Not Held For the following reason: By Court prior to date Hon. Mark A Hallal, Presiding		
03/01/2021	Case continued to March 29, 2021 at 10AM by agreement for status FTR		
03/26/2021	Case continued by agreement to April 29, 2021 at 2:00 p.m. for status		
04/29/2021	Event Result:: Conference to Review Status scheduled on: 04/29/2021 02:00 PM Has been: Not Held For the following reason: By Court prior to date Hon. Jeffrey A Locke, Presiding		
08/19/2021	Case continued by agreement to September 29, 2021 at 9:00 a.m. for jury waived trial in the third session		
08/20/2021	Notice sent to defense counsel and assistant district attorneys for jury waived trial on September 29, 2021 at 9:00 a.m. in the third session	49	
09/29/2021	Case called for jury waived trial before Sullivan, J. Commonwealth moves for trial Defendant set at the bar and sworn		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	Colloquy's regarding competency, jury waived trial, and stipulation were held Trial begins Commonwealth rests Defendant's oral motion for a required finding of not guilty at the close of the Commonwealth's case: DENIED Trial continued to October 7, 2021 at 2:00pm (Sullivan, J.) FTR		
09/29/2021	Waiver of trial by jury	50	Image
09/30/2021	Commonwealth, Defendant 's Stipulation - Agreed	51	Image
09/30/2021	Case sent to Plymouth Superior - BROCKTON Location. case and trial exhibits		
10/07/2021	Event Result:: Jury Waived Trial scheduled on: 10/07/2021 02:00 PM Has been: Held as Scheduled. Defendant present in court. Jury waived trial continues; evidence closes. Closing arguments are given. Case is continued to 10/25/21 at 2pm for sentence imposition. Comments: FTR Hon. William F Sullivan, Presiding		
10/21/2021	Event Result:: Hearing for Sentence Imposition scheduled on: 10/25/2021 02:00 PM Has been: Rescheduled For the following reason: Request of Defendant Hon. William F Sullivan, Presiding		
10/22/2021	MEMORANDUM & ORDER: OF DECISION on Jury Waived Trial: The court finds the defendant NOT GUILTY of Assault and Battery by Means of Dangerous Weapon and Attempted Murder, and GUILTY of Endangerment of a Child and Intimidation of a Witness copies sent Oct 26,2021 Judge: Sullivan, Hon. William F	52	Image
10/22/2021	Offense Disposition:: Charge #1 A&B WITH DANGEROUS WEAPON c265 §15A(b) On: 10/22/2021 Judge: Hon. William F Sullivan By: Jury Waived Trial Not Guilty Finding Charge #2 MURDER, ATTEMPTED c265 §16 On: 10/22/2021 Judge: Hon. William F Sullivan By: Jury Waived Trial Not Guilty Finding Charge #3 RECKLESS ENDANGERMENT OF CHILD c265 §13L On: 10/22/2021 Judge: Hon. William F Sullivan By: Jury Waived Trial Guilty Finding Charge #4 WITNESS/JUROR/POLICE/COURT OFFICIAL, INTIMIDATE c268 §13B On: 10/22/2021 Judge: Hon. William F Sullivan By: Jury Waived Trial Guilty Finding Judge: Sullivan, Hon. William F		
11/18/2021	Defendant 's Motion for post-conviction relief pursuant to MRCP25(a)	52.1	Image
11/19/2021	Event Result:: Hearing for Sentence Imposition scheduled on: 11/19/2021 02:00 PM Has been: Rescheduled For the following reason: Request of Defendant Hon. William F Sullivan, Presiding		
11/23/2021	Commonwealth 's Motion to clarify	53	Image
11/29/2021	MEMORANDUM & ORDER: OF DECISION AMENED: The court finds the defendant NOT GUILTY BY REASON OF MENTAL ILLNESS OR MENTAL DEFECT of Assault and Battery by Means of a Dangerous Weapon and Attempted Murder; and GUILTY of Endangerment of a Child and Intimidation of a Witness copies were given in hand by Asst Clerk Sarah Jubenville Judge: Sullivan, Hon. William F	53.1	Image
11/30/2021	Offense Disposition:: Charge #1 A&B WITH DANGEROUS WEAPON c265 §15A(b) On: 11/29/2021 Judge: Hon. William F Sullivan By: Jury Waived Trial Finding of Not Guilty by LACK OF CRIMINAL RESPONSIBILITY Charge #2 MURDER, ATTEMPTED c265 §16 On: 11/29/2021 Judge: Hon. William F Sullivan		

Docket Date	Docket Text	File Ref Nbr.	Image Avail.
	<p>By: Jury Waived Trial Finding of Not Guilty by LACK OF CRIMINAL RESPONSIBILITY</p> <p>Charge #3 RECKLESS ENDANGERMENT OF CHILD c265 §13L On: 10/22/2021 By: Jury Waived Trial Guilty Finding</p> <p>Charge #4 WITNESS/JUROR/POLICE/COURT OFFICIAL, INTIMIDATE c268 §13B On: 10/22/2021 By: Jury Waived Trial Guilty Finding</p>		
11/30/2021	Order issued for the examination of the defendant at Bridgewater State Hospital to aid the court in sentencing pursuant to G.L. c. 123, § 15(e). Defendant's next court date is: Judge: Sullivan, Hon. William F	54	
11/30/2021	Defendant 's Memorandum sentencing	55	Image
11/30/2021	Event Result:: Hearing for Sentence Imposition scheduled on: 11/30/2021 02:00 PM Has been: Held as scheduled. Defendant present in court. Court orders 15E aid in sentencing evaluation. Case continued by agreement to 12/16/2021 at 2pm for imposition of sentence. Comments: FTR Hon. William F Sullivan, Presiding		
12/15/2021	Event Result:: Hearing for Sentence Imposition scheduled on: 12/16/2021 02:00 PM Has been: Rescheduled For the following reason: Joint request of parties Hon. William F Sullivan, Presiding		
01/14/2022	Event Result:: Hearing for Sentence Imposition scheduled on: 01/14/2022 10:00 AM Has been: Held as Scheduled Comments: FTR Hon. William F Sullivan, Presiding		
01/14/2022	Defendant sentenced:: Sentence Date: 01/14/2022 Judge: Hon. William F Sullivan Charge #: 3 RECKLESS ENDANGERMENT OF CHILD c265 §13L Charge #: 4 WITNESS/JUROR/POLICE/COURT OFFICIAL, INTIMIDATE c268 §13B Probation: Risk/Need Probation Duration: 5 Years, 0 Months, 0 Days Conditions of probation: 1. No unsupervised visitation with children Hailey and Hayden 2. Not to reside in family home 3. Alcohol free w/ testing 4. Continue treatment with psychiatrist and psychologist w/ any follow up recommended 5. Sign all necessary waivers with probation 6. Take all prescribed medications 7 GPS monitoring for a period of 2 years Start Date: 01/14/2022 End Date: 01/13/2027		
01/18/2022	Sent to Registry of Motor Vehicles, Department of Revenue and Department of Transitional Assistance: Notice of Paid Legal Counsel Fee Sent On: 01/18/2022 11:04:44	56	
01/25/2022	Mental Health Records from Dept. of mental health metro south east area Solomon Carter Fuller Mental Health Center Destroyed received on 9/12/18		
01/27/2022	Notice of appeal filed. Applies To: Rezac, Jean (Defendant)	57	Image
01/28/2022	Financial Note: RAB, Recog, ID, Check		Image
03/03/2022	Notice sent to all parties regarding notice of appeal filed	58	
03/10/2022	Attorney appearance On this date Brian A Kelley, Esq. dismissed/withdrawn as Private Counsel for Defendant Jean Rezac		
03/10/2022	Attorney appearance On this date John Warren, Esq. added as Private Counsel for Defendant Jean Rezac (for appeal purposes)	59	Image
08/10/2022	CD of Transcript of 07/19/2018 11:30 AM 58A Dangerousness Hearing, 01/15/2019 09:00 AM Conference to Review Status, 02/05/2019 09:00 AM Motion Hearing, 03/22/2019 09:00 AM Conference to Review Status, 04/01/2019 09:00 AM Conference to Review Status, 05/07/2021 03:00 PM Conference to Review Status, 08/19/2021 12:00 PM Lobby Conference, 09/29/2021 09:00 AM Jury Waived Trial, 10/07/2021		

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
	02:00 PM Jury Waived Trial, 11/30/2021 02:00 PM Hearing for Sentence Imposition, 01/14/2022 10:00 AM Hearing for Sentence Imposition received from Pamela Borges DosSantos, Approved Court Transcriber.		
08/23/2022	One (1) copy of docket entries, original copy of transcript, one (1) copy of notice of assembly issued to parties, one (1) copy of exhibit list, and copy of the notice of appeal, each transmitted electronically to clerk of appellate court	60	Image
08/23/2022	Notice to Clerk of the Appeals Court of Assembly of Record	61	
08/23/2022	Notice of assembly of record sent to Counsel	62	
08/24/2022	Appeal entered in Appeals Court on 08/23/2022 docket number 2022-P-0824	63	Image

Case Disposition

<u>Disposition</u>	<u>Date</u>	<u>Case Judge</u>
Disposed by Court Finding	01/14/2022	